

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3484 of 1985

JITENDRA J TRIVEDI

Versus

ADMINISTRATOR

Appearance:

MR JR NANAVATI for Petitioner

NOTICE NOT RECD BACK for Respondent No. 1

W I T H

SPECIAL CIVIL APPLICATION No 3485 of 1985

KAZI HAMIDMIYAN DOSUMIYAN

Versus

ADMINISTRATOR

Appearance:

MR JR NANAVATI for Petitioner

SERVED for Respondent No. 1

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 12/08/96

COMMON ORAL JUDGEMENT

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 12/08/96

ORAL JUDGEMENT

Petitioners earlier filed Spl. Civil Applications No. 4087/84 and 4088/84 as by a one line order dated 28.4.1984, their services were terminated, without following any procedure under section 25.F of the Industrial Disputes Act. It is contended that the condition precedent under section 25.F was not complied with, as no notice pay or retrenchment compensation etc. were paid to them. It is contended by the petitioners that they have worked for more than 240 days in the last twelve months, at the relevant time. After hearing the parties, the Court allowed the aforesaid petitions and made the rule absolute, directing the respondents to pay backwages for the intervening period, and the order of termination was quashed and set aside by this Court by judgment and order dated 21.12.1985.

It appears that the petitioners are again constrained to file the present petitions as their services came to be terminated on 23.6.1985 without giving any formal order of termination. It is contended by the petitioners that only with a view to punish them for filing the earlier petitions, their services have again been terminated. There are several other contentions raised in these petitions. A Division Bench of this Court issued notice at the initial stage on 27.6.1985 and it appears that later on, the Administrator of the respondent Municipality remained present in the Court in response to the notice issued by the Court and made a statement before the Court that the petitioners will be permitted to resume duties with continuity of service. In view of this statement, the Court thought it fit not to pass any order with regard to further interim relief.

It is not in dispute before this Court that the petitioners were rendering their services with the Municipality. The respondent Municipality has thought it

fit not to file any reply to the petition, and, therefore, the averments made in the petition are not denied. Mr. Patel, learned advocate appearing for the Municipality submitted that merely because the petitioners are continued in services, it would not mean that the Municipality cannot terminate their services in accordance with law. No doubt, it is open for the Municipality to terminate their services in accordance with law, but in view of statement if the petitioners are continued in services even today, I find no reason why these petitions should not be allowed. It is open to the respondent Municipality to terminate services of the petitioners in accordance with law.

It is directed that the petitioners will be paid their backwages from 29th April 1984 to 13th September 1984. The petition stands allowed only to this extent. Rule made partly absolute to the aforesaid extent. No order as to costs.

csm./